No. 85-1844

(2)

Supreme Court, U.S.
FILED
JUL 29 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

F. D.,

Petitioner,

versus

ASSOCIATED CATHOLIC CHARITIES
OF NEW ORLEANS, INC. AND
JOHN DOE AND JANE ROE,

Respondent.

Response to Petition For
A Writ of Certiorari
To The Court of Appeal,
Fourth Circuit, State of Louisiana
And Motion To Vacate The Judgment Below

RESPONSE TO PETITION FOR WRIT OF CERTIORARI

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STATEMENT OF THE CASE

Petitioner, F. D., gave birth to a child out of wedlock. One month later, on February 24, 1984, availing herself of the provisions of La. R.S. 9:401, 402 and 9:404, she executed an authentic act of voluntary surrender, irrevocably surrendering legal custody of her child to respondent Associated Catholic Charities of New Orleans, Inc. (hereinafter referred to as "ACC") for purposes of adoption. ACC is an adoption agency, licensed under the laws of Louisiana.

On March 22, 1984, petitioner informed ACC that she wished to regain custody of the child. Because the law regulating agency adoption specifically states that the voluntary surrender of a minor child to an agency for adoption is irrevocable, ACC could not and did not comply with petitioner's request.

Petitioner then filed a writ of habeas corpus in Orleans Parish Civil District Court. ACC and John Doe and Jane Roe, as the married couple who adopted the child in August 1984 were named as defendants. (The child was placed in their home on February 27, 1984.)

Petitioner alleged as the sole basis of her petition that because La.R.S. 9:422.10 contained a provision for the revocation of consent, she was entitled to the return of her child. Petitioner initially failed to realize that La.R.S. 9: 422.10 falls under the section of the law regulating the surrender of a child for a private adoption. Ironically, petitioner now acknowledges the distinction but claims that it is unconstitutional.

Petitioner not only amended her petition to declare the Louisiana Adoption statutes unconstitutional, but also alleged vitiation of consent by duress because she had been given information as to how financially able to care for the child the adoptive parents were and what good parents they would be, which she claims put her in a state of confusion. ACC filed an Exception of No Cause of Action.

The trial court granted judgment in favor of ACC, dismissing petitioner's suit for failure to state a cause of action upon which relief could be granted.

The Court of Appeal Fourth Circuit, State of Louisiana, affirmed the lower court and the Louisiana Supreme Court denied petitioner's writ of certiorari.

REASONS FOR DENYING PETITIONER'S WRIT APPLICATION

The petitioner should be more candid: she has had a change of heart and now seeks to undo her decision to surrender her minor child for adoption. Perhaps motivated by the guilt of that decision, petitioner would have this Honorable Court upset the entire Louisiana adoption scheme. Would her guilt be lessened knowing that a decision by this Court in her favor would take her daughter away from the only parents that the child has ever known?

The petitioner's application for review by this Honorable Court should be denied. It should be denied because the arguments advanced by the petitioner are completely devoid of legal support. Her discussion of the putative issues thus becomes an exercise in dissembling, wherein case holdings of this Honorable Court are distorted and misapplied. Petitioner further fails to recognize Louisiana's interest in supporting its present statutory scheme for adoption.

But another compelling reason for denial of review resides in the precedent of *Golz v. Children's Bureau of New Orleans, Inc.*, 326 So.2d 865 (La. 1976), appeal dismissed 426 U.S. 901, 96 S.Ct. 2220, 48 L.Ed.2d 827 (1976), a case challenging the same laws under attack here; involving similar issues raised by this petitioner; and presenting a similar factual backdrop. Since this Honorable Court denied review in *Golz*, supra, the force and logic of *stare decisis* should obtain in the instant case as well.

I.

The Louisiana adoption statutes which regulate the surrender of a minor to a licensed adoption agency do not violate the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution.

The petitioner prefaced her argument with a line from Coleridge. She may as well have quoted from "The Rhyme of the Ancient Mariner," for her premise is entirely off-base: ironically for her, it is the love of the adoptive parents for their daughter that is most threatened here. A more appropriate quotation, which better serves as the touchstone for consideration of the petitioner's argument, can be found in Charles Krauthammer's column in the "New York Daily News" of July 2, 1986. It has special meaning in this case, for it summarizes accurately the entire tenor of petitioner's complaints:

> "There is no greater intellectual laziness than the proposition that perception is reality. The last place that Orwellian slogan ought to find refuge is in the law. The whole point of the law is to determine which perceptions are real and which aren't, and to give legal standing to one and not the other."

Petitioner has accused Louisiana's adoption scheme of "impermissibly discriminating against that class of parents who contemplate surrender of their children for adoption." The basis of this complaint resides in the facts that a surrender to a state-licensed agency is irrevocable and that there is no requirement for legal counsel at the surrender, while a surrender to a private party allows for a thirty (30) day rescission period as well as requires that the surrendering parent(s) be represented by counsel at the execution of the

act of surrender. A plain reading of the statutes under attack shows that no "impermissible discrimination" at all results from Louisiana's adoption law.

At this point, we should define with precision any "categories" or "classifications" which may come into being via the adoption statutes. It is important to note that it is the surrendering parent, and not the law, which defines the "category" into which the parent will fall in the adoption process.

The Louisiana Legislature has made it possible for a birth parent to freely choose whether or not to surrender a child for adoption to a licensed agency or to a private individual. Thus the application of the laws peculiar to each procedure is the result of the birth parent's volition in every case. Of course, the birth parent may choose not to surrender at all. Thus, as a threshold matter, the State of Louisiana in no sense "discriminated against that class of parents who contemplate surrender of their children for adoption," (to use petitioner's own phrasing).

In making an equal protection challenge, it is the claimant's burden to "demonstrate in the first instance a discrimination against (her) of some substance." *American Party of Texas v. White*, 415 U.S. 767, 781, 94 S.Ct. 1296, 1306, 39 L.Ed.2d 744 (1974). This applicant has failed completely to carry that burden.

Classification is the essence of all legislation, and only those classifications which are invidious, arbitrary, or irrational offend the Equal Protection Clause of the Constitution. *Clements v. Fashing*, 457 U.S. 957, 967, 102 S.Ct. 2836, 2845, 73 L.Ed.2d 508 (1982) (citing *Williamson v. Lee Optical of Oklahoma*, 348 U.S. 483, 489, 57 S.Ct. 461, 465, 99 L.Ed. 563 (1955).) The Equal Protection Clause allows

the states considerable leeway to enact legislation that may appear to affect similarly situated people differently. Legislatures are ordinarily assumed to have acted constitutionally. Under traditional equal protection principles, distinctions need only be drawn in such a manner as to bear some rational relationship to a legitimate state end. "Classifications are set aside only if they are based solely on reasons totally unrelated to the pursuit of the State's goals and only if no grounds can be conceived to justify them." *Clements*, supra, 457 U.S., at 962-963, 102 S.Ct., at 2843.

It is beyond dispute that there exists a rational, and very important, relation between the Louisiana adoption statutes and the legislative objective in passing them. One commentator, Walter J. Wadlington, Jr., writing in the Tulane Law Review, discussed the distinctions between agency and private adoptions: (36 Tul.L.Rev. 201, 210)

> "The two methods for adoption of children in Louisiana today are: (1) the agency adoption, which includes those in which placement is made by either a licensed adoption agency or the Department of Welfare and (2) the private adoption, which results in placement through any other means. The latter category is generally subdivided by distinguishing between 'related' adoptions in which the adoptor is a natural parent, or step-parent or close relative of the adoptive child, and the so-called 'independent' adoptions in which adoptor and adopted have no prior relationship, either by consanguinity or affinity. *This method of categorization, which is based chiefly on initial placement of the child with the prospective adoptor, is recognized by the establishment of separate procedural require-*

> *ments for accomplishing the adoption.*" (Emphasis added.)

Such alternative procedures make sense. As Wadlington notes, the private adoption is better-suited to the "related" adoption, in which a step-parent or other blood relative seeks to adopt a child. It would not be desirable or sensible to employ the surrender of the child to an agency in such a case. On the other hand, in the "independent" adoption, in which the adopted has no relationship with the adoptor, the agency procedure contains distinct and worthy advantages to all parties involved: the child to be surrendered, the adoptive parents and the birth parent. Wadlington discusses a few of these benefits: (36 Tul.L.Rev. 201,212)

> "The four principal advantages of the agency adoption are: (1) when a child is placed, he is clearly available for adoption, the irrevocable consent of the parents or decree of abandonment having previously been obtained; (2) only one hearing is necessary before a final adoption decree can be rendered, two are required for an independent (private adoption); (3) the agency, through its investigative resources, can carefully and scientifically seek to match an adoptor and adopted compatibly; (4) both the adoptor and adopted are insulated from contact with the knowledge of the original parents."

In fact, petitioner has overlooked some of the benefits she enjoyed from surrendering her child to respondent ACC, one full month after the baby's birth (not "immediately" thereafter, as F. D. distorts in her application). Petitioner benefited from the fact that:

(1) ACC is a reputable organization with a long history of competence and integrity upon which she could rely with confidence;

2) ACC is a licensed adoption agency, thus subject to state supervision and regulation;

3) ACC is required to staff qualified personnel, experienced in the field of adoption practices, counseling and social welfare;

4) ACC has access to a network of adoption resources, both within and outside of Louisiana, that complement their own;

5) these resources would be used to investigate fully the background and present circumstances of any prospective adoptive couple;

6) ACC makes every effort to find parents who are a suitable genetic and biological match for the adopted child;

7) ACC would make certain that the adoptive couple would be financially able to care for the child;

8) ACC is a non-profit agency, thus money is never a motive for arranging adoptions.

In the private "independent" adoption setting, the surrendering parents enjoy none of the above advantages.

Tendentiously, the applicant has incorrectly relied on *Caban v. Mohammed*, 441 U.S. 380, 99 S.Ct. 1760, 60 L.Ed.2d 297 (1979), in support of her insubstantial claim that no "substantial relationship" exists between Louisiana's adoption

laws and the legislative purpose in enacting them. This Honorable Court will recognize that *Caban*, supra, renders no support at all to the applicant's argument. *Caban*, supra, concerned a gender-based classification inherent in New York's adoption legislation, whereby a natural mother could block the adoption of her child simply by withholding her consent, while the natural father was denied any such veto power. This Honorable Court ruled that such a gender-based classification bore no substantial relation to any legitimate state interest. The applicant's present attempt to equate New York's sex-based distinction with Louisiana's parallel adoption procedures is feeble and must be dismissed.

The cases upon which the petitioner relies as erstwhile support for her untenable position are, simply, not appropriate. For example, *Jimenez v. Weinberger*, 417 U.S. 628, 94 S.Ct. 2496, 41 L.Ed.2d 363 (1974) involved the eligibility of different classes of illegitimate children for Social Security benefits. This Honorable Court held that a discriminatory law that deprived such benefits on the status of birth violated equal protection because such classification bore no legitimate state interest. *Weber v. Aetna Casualty & Surety Co.*, 406 U.S. 164, 92 S.Ct. 1400, 31 L.Ed.2d 768 (1972), struck down the Louisiana Workers' Compensation law that denied recovery rights to unacknowledged illegitimates, who were relegated to lesser status in the priority list vis-a-vis other illegitimates. This discriminatory treatment was violative of equal protection for lack of a significant relationship to the recognized purpose of the workmen's compensation laws. Similarly, *Handley, By and Through Herron v. Schweiker*, 697 F.2d 999 (11th Cir. 1983), concerned an Alabama intestacy scheme which denied illegitimate children benefits under the Social Security Act. All of these cases dealt with denials of benefits to illegitimates solely on the basis of the birth status of the deprived children. These are not legitimate authority for the equal protection issue raised in the case *sub judice*.

A more egregious example of misapplication of the law resides in the petitioner's extract from *Mills v. Habluetzel*, 456 U.S. 91, 102 S.Ct. 1549, at 1555, 71 L.Ed.2d 770 (1982), quoted at page 13 of F.D.'s petition, which she describes as this Honorable Court's "judicial recognition of the state of mind of an unwed mother at the time of birth." In fact, that quotation lifted by the petitioner refers to obstacles which unwed mothers faced in bringing paternity suits within the one-year prescriptive period imposed on such claims by a Texas statute. Such a fast-and-loose manipulation of the holdings of this Honorable Court is further illustration of the guiding theme of the petitioner's application: an attempt to turn her perception of the law into a false reality, as by some form of legal alchemy. This Honorable Court is reminded of petitioner's feeble claim of vice of consent in the signing of the authentic act of surrender based on the fact that she had been told that the adoptive parents would provide a good home for her child. The Louisiana district court, the appellate court and the state supreme court rejected that claim.

It is not incomprehensible to assume, using petitioner's logic, that if she had surrendered to a private individual, she would have objected to not having had counseling by licensed social workers and that the thirty (30) day period in which to revoke consent was either too much time or too little.

Another example of petitioner's illogic is the fact that she complains that the presence of counsel is not mandated in a surrender to an agency, yet she never articulates why a lawyer is needed; indeed, no holding of this Honorable Court, or any other court, has imposed such a requirement. See *Golz*, supra. The mere presence of counsel at a surrender is not the solution for all perceived ills. Unless the attorney is experienced in adoption law, and unless he does not stand to profit from the situation, there is no assurance that the proceeding will be handled competently. An example of a Louisiana case in which an attorney, evidently not conversant with adoption

law, mishandled a private "independent" adoption with disastrous results for the adoptive family is *Wuertz v. Craig*, 458 So.2d 1311 (La. 1984). The Louisiana agency adoption procedure, conducted by experts with experience in the field, who are not driven by a profit motive, is the infinitely safer, more reliable mode of surrender.

II.

The Louisiana statutes which regulate the surrender of a minor to a licensed adoption agency do not violate the Due Process Clause of the Fifth Amendment of the U.S. Constitution.

The petitioner's process of dissimulation continues with the second question she raises in her application. There is a great deal of illogic and overlap in her arguments. This claim of petitioner can be summed up as follows: Louisiana's adoption scheme violates due process because the surrender to a state-licensed agency does not allow for a time period within which the surrendering parent can rescind the surrender and does not allow a birth parent to be notified of the adoption proceedings. (Petitioner raises the latter claim for the first time in her application.)

A compelling reason for this Honorable Court to deny F.D.'s petition is the disposition of *Golz*, supra, a Louisiana case quite similar to the present case. In that case, a married couple approached Children's Bureau, a state-licensed agency, and inquired about giving up their yet-unborn child for adoption. Told that the surrender would have to wait until after the baby was born, the couple waited until their son was delivered. Subsequent to the birth, the parents initiated contact with the agency on several different occasions in order to surrender their son. Each time, however, they vascillated and returned home without effecting the surrender.

Finally, six months after the child's birth, the boy was surrendered to Children's Bureau. But the day after that event, the couple told the agency that they had changed their minds and wanted their son back. Children's Bureau refused to return the child and the parents filed suit, alleging as does the instant petitioner, there was no valid consent to the surrender, that under the adoption statutes the birth parents could revoke their consent and that the statutory adoption procedure of La.R.S. 9:402 et. seq. unconstitutionally deprived the parents and child of the due process of law. The court in *Golz*, supra, found that the birth parent's consent was freely given and that under La.R.S. 9:402 the surrender of a minor child to an agency for adoption is irrevocable.

Of particular importance in the holding in *Golz*, supra is that the court, in recognizing that Louisiana is not alone in providing for the irrevocability of an act of surrender to a licensed adoption agency, stated:

> "Louisiana is not alone in providing for the irrevocability of an act of surrender to a licensed adoption agency. New Mexico, Nevada, Mississippi, Indiana, Illinois, Ohio, New Jersey, and the District of Columbia are among the jurisdictions which provide that such a surrender by a natural parent is irrevocable, in the absence of fraud or duress. See New Mexico Statutes Ann. ss 22-2-27 (Supp. 1975); Nev.Rev.Statutes ss 127.080; Miss. Code of 1972 Ann. ss 93-17-9; Ohio Revised Code Ann. ss 3107.06(B)(2); Dist. of Columbia ss 16-304 and ss 32-786; N.J. Statutes 9:2-16; *Acedo v. Arizona Dept. of Public Welfare*, 20 Ariz.App. 467, 513 P.2d 1350 (1973); *Catholic Charities of the Diocese of Galveston, Inc. v. Harper*, 161 Tex.21, 337 S.W.2d 111

(1960); *Gonzales v. Toma*, 330 Mich. 35, 46 N.W.2d 453 (1951); *Kozak v. Lutheran Children's Aid Society*, 164 Ohio 335, 130 N.E.2d 796 (1955); *Adoption of Doe*, 87 N.M. 253, 531 P.2d 1226 (1975)." (*Golz*, 326 So.2d at 870.)

On the constitutional issue, the court in *Golz*, supra, held that once the rights of a parent have been surrendered to an agency, the parents no longer have an interest to be protected in the adoption proceeding, and therefore, the proper party to receive notice of adoption proceedings is the agency. The Louisiana Supreme Court rejected that constitutional challenge and the couple sought relief in this Honorable Court. Review was denied with a succinct evaluation that aptly describes the present petition: "The appeal is dismissed for want of a substantial federal question." *Golz*, supra, is a forceful precedent.

It should come as no surprise that the authorities cited by the petitioner have no application to this case. The petitioner cites *Stanley v. Illinois*, 405 U.S. 645, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972), in which the children of an unwed father were taken from him in a dependency proceeding instituted by the state of Illinois with no determination that he was in any way an unfit parent. In *Wisconsin v. Yoder*, 406 U.S. 205, 92 S.Ct. 1526, 32 L.Ed.2d 15 (1972), the convictions of Amish parents who violated the state's compulsory school-attendance law were reversed. This Honorable Court, in *Meyer v. Nebraska*, 262 U.S. 390, 43 S.Ct. 625, 67 L.Ed.2d 1042 (1923), reversed the conviction of a teacher for teaching German and thus violating a state law prohibiting the teaching of foreign languages to young children.

F.D. also cites *Quilloin v. Wilcott*, 434 U.S. 246, 98 S.Ct. 549, 54 L.Ed.2d 511 (1978), in which the natural father of

an illegitimate child could not block the adoption by the child's stepfather, where the father had not petitioned for legitimation at any time in the 11-year period between the birth and the filing of the adoption petition. To paraphrase language from the late Justice Stewart's dissent in *Moore v. East Cleveland*, 431 U.S. 494, 97 S.Ct. 1932, 52 L.Ed.2d 531 (1977): To equate the complaint of this petitioner with the fundamental interests at stake in the cases she has cited is to extend the limited substantive contours of the Due Process Clause beyond recognition. It is obvious that the petitioner's desire to abrogate her surrender to ACC cannot be considered a right that is "implicit in the concept of ordered liberty." *Palko v. Connecticut*, 302 U.S. 319, 325, 58 S.Ct. 149, 152, 82 L.Ed. 288 (1937).

More accurate authority is found in *Maher v. Roe*, 432 U.S. 464, 97 S.Ct. 2376, 53 L.Ed.2d 484 (1977). This Honorable Court observed, in language that frames perfectly in context the instant petitioner's complaint:

> "There is a basic difference between direct state interference with a protected activity and state encouragement of an alternative activity consonant with legislative policy. Constitutional concerns are greatest when the state attempts to impose its will by force of law; the state's power to encourage actions deemed to be in the public interest is necessarily far broader." (43 U.S. at 475, 476, 53 L.Ed.2d at 495, 496.)

Louisiana's adoption scheme does not place any restriction on a constitutionally protected liberty interest. To the contrary, the encouragement of adoptions, especially agency adoptions, is consonant with legislative policy. We must now address the question whether Louisiana's agency adoption

procedure can be sustained under the less demanding test of rationality that applies in the absence of a suspect classification or the impingement of a fundamental right. This requires that the distinctions drawn between private and agency adoptions be "rationally related" to a "constitutionally permissible" purpose. *Massachusetts Board of Retirement v. Murgia*, 427 U.S. 307, 314, 96 S.Ct. 2562, 2567, 49 L.Ed.2d 520 (1976).

Once more, guidance is provided by this Honorable Court. Mr. Justice Stevens, writing in *Caban*, supra, albeit dicta, describes perfectly the guiding standards behind Louisiana's agency adoption process: (441 U.S., at 407-408, 99 S.Ct. at 1776)

> ". . . it facilitates the interests of the adoptive parents, the child, and the public at large by streamlining the often traumatic adoption process and allowing the prompt, complete, and reliable integration of the child into a satisfactory new home at as young an age as is feasible. Put most simply, it permits the maximum participation of interested natural parents without so burdening the adoption process that its attractiveness to potential adoptive parents is destroyed."

As Mr. Justice Stevens observes at footnote 15, attending the above extract: "These are not idle interests." If prospective adoptive parents knew that they faced the possibility of having the birth parent abrogate her surrender, which would only lead to a totally unnecessary hearing to determine the best interests of the child, as well as protracted litigation, such couples would hesitate to adopt through licensed agencies and the significant interests fostered by this process would suffer.

Contrary to the misapprehension held by petitioner, private adoptions, especially "independent" adoptions, are fraught with hidden dangers. A surrendering parent can never be assured that any type of investigation regarding the prospective adoptors can be conducted. Hence, she could never feel confident about her child's eventual destination. The birth parent would not have had the benefit of counseling by the agency's adoption experts, who operate without a profit motive. This Honorable Court took "judicial recognition" (to borrow the petitioner's term) of the booming trade of selling babies to long-waiting couples: "Some of the ugliest disclosures of our time involve black marketing of children for adoption." *Caban*, supra.

Petitioner justifies her argument by comparing the instant situation with that which prompted Congress to enact 15 U.S.C. ss 1635, which permits the buyer in certain transactions a three-day grace period after sale within which to abrogate the contract. This analogy is superficial and incomplete. The petitioner avoids the essential question: does the Constitution mandate that such a three-day rescissory period be imposed? The answer is no. Congress saw fit to enact that legislation in order to protect the unsuspecting consumer from being mulcted by sharp practitioners. This comparison is not appropriate for this case.

A more realistic analogy is as follows: imagine that Congress instituted a consumer education program, in which prospective buyers of certain products were apprised of the ways a particular item would suit their needs. This optional program would be conducted by disinterested experts who would not profit by any sale. However, if the consumer bought a product after taking the course, the sale would be final. In contrast, if the consumer did not opt to take advantage of the course and purchased a product "sight unseen," such a buyer would have access to the rescissory term after sale.

Of course, the former situation corresponds to Louisiana's agency adoption scheme, while the latter scenario, over which *caveat emptor* hovers, describes the private adoption procedure. The safeguards inherent in our hypothetical of the counseled consumer make the rescissory term unnecessary, just as the built-in protections for all concerned in an agency adoption obviate the need for a period in which to abrogate consent.

CONCLUSION

The petitioner should be more candid. She has had a change of heart and now seeks to undo her decision to surrender. However, since the lower courts determined that there was no vice in her consent, the only way she can succeed in her rescissory effort is to attack the adoption statutes.

The Louisiana Fourth Circuit Court of Appeal, in setting forth succinctly the reason why petitioner's constitutional attack should be rejected stated:

> "We further reject plaintiff's constitutional attack. In *Golz v. Children's Bureau of New Orleans, Inc.*, 326 So.2d 865 (La. 1976), the Louisiana Supreme Court held that the statutory procedure for agency adoptions does not violate due process of law by failing to afford a natural parent legal counsel or a judicial hearing before the surrender of parental rights in a formal instrument.
>
> Plaintiff raises equal protection arguments in the instant case. Because we conclude a rational basis exists for the Legislature to treat the requirements for an agency adoption

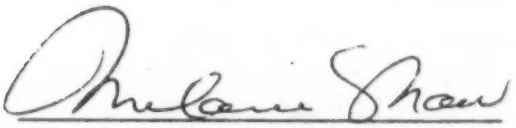
and a private adoption differently, we conclude no constitutional impairment exists based on lack of equal protection. Private adoptions are not clothed with safeguards that exist in a state licensed and regulated agency, and one can reasonably conclude that greater abuse might occur in a private adoption setting than in an agency one. Therefore, more stringent requirements, as determined by the Legislature in private adoptions, clearly have a rational basis.

Because these differences in procedure between private and agency adoptions are founded on real distinctions and are not arbitrary or irrational, we conclude they further a legitimate state purpose. LSA-Const. Art. 1 xx3: *R.J. D'Hemecourt Petroleum v. McNamara*, 444 So.2d 600 (La. 1984), certiorari denied _____ U.S. _____ , 105 S.Ct. 92, 83 L.Ed.2d 39 (1984); *Harry's Hardware, Inc. v. Parsons*, 410 So.2d 735 (La. 1982), certiorari denied 459 U.S. 881, 102 S.Ct. 178, 74 L.Ed.2d 145 (1984). Furthermore, a mother is free to choose whether she decides to surrender or not surrender the child and whether she prefers an agency or private adoption if indeed she wants to surrender the child." (Petitioner's application A-5 and A-6.)

For the foregoing reasons, a writ of certiorari should not be issued to review the above quoted judgment of the Court of Appeal, Fourth Circuit, State of Louisiana.

Respectfully submitted:

MELANIE SHAW



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CERTIFICATE OF SERVICE

Undersigned counsel for Respondent certifies that service of this Response To Petition For Writ of Certiorari has been made upon counsel for petitioner this date, in accordance with law, by depositing three copies thereof in the United States Mail, postage prepaid, to the following:

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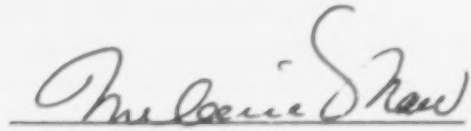
3445 N. Causeway Boulevard
Metairie, Louisiana 70002



MELANIE SHAW

DATED: July 28, 1986